STATE OF MICHIGAN

COURT OF APPEALS

In the Matter of AYDEN ROOD, Minor.

DEPARTMENT OF HUMAN SERVICES,

Petitioner-Appellee,

v

DARROLL DONALD ROOD,

Respondent-Appellant.

UNPUBLISHED
June 12, 2008

No. 280597
Mason Circuit Court
Family Division
LC No. 06-000019-NA

Before: Jansen, P.J., and Zahra and Gleicher, JJ.

JANSEN, P.J. (*dissenting*).

I respectfully dissent. Respondent, the child's noncustodial parent, was incarcerated when the child was removed from the mother's care in March 2006. Respondent's last visit with the child had occurred on Christmas 2005. Within a few days of the child's placement into foster care, respondent called petitioner. However, respondent did not follow through on instructions to promptly contact and remain in communication with the foster care worker. Nor did he pursue visitation with the child. Respondent did not contact the foster care worker until May 2007, approximately 14 months after his last contact with petitioner. During these months, respondent had no contact with the child and provided no financial support for the child.

I am unconvinced by respondent's argument that he never received proper notice in this case. Respondent had notice that the child was removed from the mother's home and was fully aware that petitioner was the agency responsible for the removal. I realize that certain written notices were sent to respondent at an incorrect address. However, respondent took little initiative to contact petitioner, thereby demonstrating his general indifference for the life of the child. Indeed, I cannot omit mention of the real possibility that respondent's failure to fully participate in these proceedings was not so much attributable to a lack of adequate notice as it was to his desire to avoid contact with the child's mother.

Nor can I conclude that the family court clearly erred by finding that MCL 712A.19b(3)(g) and (j) had been proven by clear and convincing evidence. I fully acknowledge that a statutory ground for termination may not be proven through mere conjecture. See *In re Sours*, 459 Mich 624, 636; 593 NW2d 520 (1999). However, uniting the child with respondent would be tantamount to placing the child with an utterly disinterested stranger. Respondent had maintained absolutely no contact with the child and had provided no support for the child over a

substantial span of time. This evidence clearly established that respondent had failed to provide proper care and custody for the child in the past, and I conclude that it also established that "there [wa]s no reasonable expectation that [respondent would] be able to provide proper care and custody within a reasonable time considering the child's age." MCL 712A.19b(3)(g). With respect to MCL 712A.19b(3)(j), respondent had been convicted of both domestic violence against the child's mother and of assault and battery. I concede that respondent's past criminal offenses were not directly related to child abuse or the victimization of children. Nevertheless, even assuming that there was no reasonable probability that respondent would inflict physical harm on the child, I must conclude that there was a genuine likelihood that the child would suffer from future emotional harm if placed in respondent's custody.[1]

I cannot conclude that the family court clearly erred by terminating respondent's parental rights to the minor child. I would accordingly affirm.[2]

/s/ Kathleen Jansen

[1] Contrary to respondent's argument on appeal, the family court was not required to make specific findings concerning the best interests of the child before terminating his parental rights. *In re Gazella*, 264 Mich App 668, 677-678; 692 NW2d 708 (2005).

[2] Although it was technically erroneous for the family court to admit hearsay statements contained in certain police reports, see *In re CR*, 250 Mich App 185, 205-206; 646 NW2d 506 (2002), I conclude that this error was harmless and did not affect the outcome of the proceedings, *Ypsilanti Fire Marshal v Kircher*, 273 Mich App 496, 529; 730 NW2d 481 (2007).